

Senate Bill No. 130

Passed the Senate June 1, 2009

Secretary of the Senate

Passed the Assembly July 9, 2009

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act relating to the King City Joint Union High School District, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 130, Denham. King City Joint Union High School District.

(1) Existing law provides for emergency apportionments to school districts subject to specified conditions including, in certain circumstances, the repayment of an emergency loan over a period of no more than 10 years and the appointment by the Superintendent of Public Instruction of an administrator who would exercise the powers and responsibilities of the governing board of the school district.

This bill would express the intent of the Legislature to provide emergency apportionment assistance to the King City Joint Union High School District, and require the Superintendent to assume all the rights, duties, and powers of the governing board of the King City Joint Union High School District and to appoint, in consultation with the Monterey County Superintendent of Schools, a state administrator to act on behalf of the Superintendent in exercising the Superintendent's authority over the school district.

The bill would continue the authority of the Superintendent and the state administrator over the school district until certain enumerated conditions are met, including the completion of assessment and improvement plans for the school district.

The bill would require the County Office Fiscal Crisis and Management Assistance Team (FCMAT) to provide specified assistance relating to the development of a multiyear financial recovery plan, the preparation of budget reports, and the recommendation of activities that could enhance revenue or achieve cost savings.

The bill would require the school district to bear 100% of costs associated with implementing the provisions of the bill relating to the administration of the emergency apportionment assistance and the activities of the FCMAT, thereby imposing a state-mandated local program.

The bill would appropriate \$5,000,000 from the General Fund to the Superintendent for apportionment as an emergency loan to the King City Joint Union High School District, and specify procedures for repayment of the loan. In addition, the bill would authorize the district to augment the emergency loan with an additional \$8,000,000 of lease financing in order to increase the emergency loan to a total of no more than \$13,000,000. The bill would authorize the school district to sell property owned by the district and use the proceeds from the sale to reduce or retire the emergency loan, and would prohibit the district from being eligible for financial hardship assistance under the Leroy F. Greene School Facilities Act of 1998.

(2) This bill would make a legislative finding and declaration that the unique circumstances of the King City Joint Union High School District warrant the enactment of a special statute.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Providing a quality education that meets the unique needs of King City public school pupils is a fundamental goal that should not be jeopardized.

(b) On December 4, 2007, the Monterey County Office of Education declared the King City Joint Union High School District a “lack of going concern” and appointed a fiscal advisor to monitor the operations of the district.

(c) The budget analysis conducted by the county office indicates that the district is deficit spending, is unable to maintain its reserve for economic uncertainty, and will have a negative fund balance for at least the current and two subsequent fiscal years.

(d) The district is facing a fiscal and cash insolvency as a result of organizational decisionmaking and the loss of an appeal for a recent Public Employee Relations Board (PERB) ruling that resulted in increased employee compensation costs and continued deficit spending.

(e) The district is declining in enrollment, which is further exacerbating its fiscal circumstances.

(f) The King City Joint Union High School District is projected to run out of cash to support its routine operations and expenditures by March 2009, and it will require an emergency appropriation from the state in order to continue the delivery of educational services to pupils enrolled in the district.

SEC. 2. It is the intent of the Legislature to provide emergency appropriation assistance to the King City Joint Union High School District, and invoke the provisions of Article 2 (commencing with Section 41320) of, and Article 2.5 (commencing with Section 41325) of, Chapter 3 of Part 24 of Division 3 of Title 2 of the Education Code, except as otherwise provided in this act, in order to restore the district to fiscal solvency.

SEC. 3. As provided in subdivision (b) of Section 41326 of the Education Code, the Superintendent of Public Instruction shall assume all legal rights, duties, and powers of the King City governing board and shall appoint a state administrator, in consultation with the county superintendent, to act on his or her behalf in carrying out the requirements of Article 2 (commencing with Section 41320) of, and Article 2.5 (commencing with Section 41325) of, Chapter 3 of Part 24 of Division 3 of Title 2 of the Education Code. Notwithstanding subdivision (e) of Section 41326 of the Education Code, the authority of the Superintendent of Public Instruction and the state administrator shall continue until all of the following occur:

(a) (1) At any time after one complete fiscal year has elapsed following the district's acceptance of a loan as described in subdivision (a) of Section 41326 of the Education Code, the state administrator determines, and so notifies the Superintendent of Public Instruction and the county superintendent of schools, that future compliance by the school district with the recovery plans approved pursuant to paragraph (2) is probable.

(2) The Superintendent of Public Instruction may return power to the governing board for any area listed in subdivision (a) of

Section 41327.1 of the Education Code, if performance under the recovery plan for that area has been demonstrated to the satisfaction of the Superintendent of Public Instruction.

(b) The Superintendent of Public Instruction has approved all of the recovery plans referred to in subdivision (a) of Section 41327 of the Education Code, and the County Office Fiscal Crisis and Management Assistance Team completes the improvement plans specified in Section 41327.1 of the Education Code and has completed a minimum of two reports identifying the school district's progress in implementing the improvement plans.

(c) The state administrator certifies that all necessary collective bargaining agreements have been negotiated and ratified, and that the agreements are consistent with the terms of the recovery plans.

(d) The school district has completed all reports required by the Superintendent of Public Instruction and the state administrator.

(e) The state administrator certifies that the members of the school board and district personnel, as appropriate, have successfully completed the training specified in subdivision (b) of Section 7 of this act.

(f) The Superintendent of Public Instruction determines that future compliance by the school district with the recovery plans approved pursuant to subdivision (b) is probable.

SEC. 4. In addition to the implementation of subdivision (b) of Section 41325 of the Education Code, it is the intent of the Legislature that the Superintendent of Public Instruction, operating through the appointed state administrator, do all of the following:

(a) Work with the staff and governing board of the King City Joint Union High School District to identify the procedures and programs that the district will implement during the 2008–09 school year and future school years that do all of the following:

- (1) Significantly raise pupil achievement.
- (2) Improve pupil attendance.
- (3) Lower pupil dropout rate.
- (4) Increase parental involvement.
- (5) Attract, retain, and train a quality teaching staff.
- (6) Manage fiscal expenditures in a manner that is consistent with the current and projected revenues of the district.

(b) Analyze the identified procedures and programs and, where applicable and appropriate, protect, maintain, and expand them as the budget of the district allows. The state administrator shall report

any findings applicable to this section to the Superintendent of Public Instruction and the education committees of the Legislature.

(c) To the extent allowed by district finances, maintain, under the revised program, core educational reforms that will lead to districtwide improvement of academic achievement, including, but not necessarily limited to, educational reforms targeting underperforming and Program Improvement schools and other reforms that have demonstrated measurable success.

(d) Consider for purposes of efficiency and cost containment an analysis of the unification of the King City Joint Union High School District with the King City Elementary School District, any other school district located within the general high school attendance area, or both.

SEC. 5. (a) The County Office Fiscal Crisis and Management Assistance Team (FCMAT) shall, with concurrence from the Superintendent of Public Instruction, do all of the following:

(1) Provide assistance to the state administrator in the development of the first annual multiyear financial recovery plan required under paragraph (2) of subdivision (a) of Section 41327 of the Education Code.

(2) Provide assistance to the state administrator in the development of the adopted budget and interim reports.

(3) Recommend to the Superintendent of Public Instruction any studies or activities that should be undertaken by the state administrator to enhance revenue or achieve cost savings.

(4) Provide any other assistance as described in Section 42127.8 of the Education Code.

(b) The district shall bear 100 percent of all costs associated with implementing Article 2.5 (commencing with Section 41325) of Chapter 3 of Part 24 of Title 2 of the Education Code, including the activities of the FCMAT. The FCMAT's assistance under this section shall continue until the district is certified as positive pursuant to the definition in paragraph (1) of subdivision (a) of Section 42131 of the Education Code, or until all legal rights, duties, and powers are returned to the board, whichever comes first.

SEC. 6. For the purposes of Article 2 (commencing with Section 41320) of, and Article 2.5 (commencing with Section 41325) of, Chapter 3 of Part 24 of Division 3 of Title 2 of the Education Code, the administrator is a public school employer

within the meaning of the Educational Employment Relations Act (Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code).

SEC. 7. (a) The Superintendent of Public Instruction may consider the comprehensive assessment conducted by the County Office Fiscal Crisis and Management Assistance Team (FCMAT) pursuant to Section 41327.1 of the Education Code to meet the requirements for the management review and recovery plan identified in paragraph (1) of subdivision (a) of Section 41327.1 of the Education Code.

(b) The improvement plan for personnel management specified in paragraph (3) of subdivision (a) of Section 41327.1 of the Education Code shall include, but not necessarily be limited to, the following training:

(1) Training for members of the governing board of the school district in the subjects about which members of the governing board need to have knowledge to effectively discharge their duties as board members, with specific training in the fiduciary responsibilities of a governing board member and in the financial management practices necessary for governing board members to effectively discharge their duty to oversee and monitor the budget, accounting practices, revenues, and expenditures of the school district. At a minimum, each board member shall participate in the Masters In Governance training provided by the California School Boards Association. The cost for this training shall be borne by the district.

(2) Training for all personnel with management, policymaking, and advisory responsibilities who report or would report directly to the state administrator, to ensure they have the knowledge and skills to effectively administer their areas of responsibility consistent with sound fiscal practices and the budgetary requirements of the school district.

(c) Notwithstanding the timelines in subdivision (d) of Section 41327.1 of the Education Code, after the first written status report, FCMAT shall file subsequent reports annually thereafter as determined by the Superintendent of Public Instruction.

SEC. 8. (a) The sum of five million dollars (\$5,000,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for apportionment to the King City Joint Union High School District for the purpose of an emergency loan.

In order to qualify for the loan, the district shall comply with Article 2 (commencing with Section 41320) and Article 2.5 (commencing with Section 41325) of Chapter 3 of Part 24 of Division 3 of Title 2 of the Education Code to the extent those provisions are consistent with the conditions specified in this act.

(b) Funds may be disbursed from the proceeds of the loan only if the administrator and the County Office Fiscal Crisis and Management Assistance Team jointly determine that the disbursement is necessary to support the immediate cashflow needs of the district.

(c) Based on the needs of the district to meet its obligations, the Superintendent of Public Instruction may direct the Controller to disburse, on a monthly basis, specific amounts of the emergency loan before the approval of all of the conditions established by this act.

(d) For the fiscal year in which the apportionments are disbursed and each year thereafter, the Controller, or his or her designee, shall cause an audit to be conducted of the books and accounts of the district, in lieu of the audit required by Section 41020 of the Education Code. At the discretion of the Controller, the audit may be conducted by the Controller, his or her designee, or an auditor selected by the district and approved by the Controller. The costs of these audits shall be borne by the district. These audits shall be required until the Controller determines, in consultation with the Superintendent, that the district is financially solvent, but in no event earlier than one year following the implementation of the plan or later than the time the apportionment made is repaid, including interest.

SEC. 9. (a) The King City Joint Union High School District shall repay the emergency loan incurred pursuant to Section 8 of this act as a straight line loan amortized over a 20-year term. This amount shall be repaid by the district, plus interest calculated at a rate equal to the rate earned by the Pooled Money Investment Account on the date this act becomes effective, for a period not to exceed 20 years.

(b) If a required payment is not made within 60 days after a scheduled date, the Controller shall pay the defaulted loan payment of principal and interest by withholding that amount from the next available payment that would otherwise be made to the county treasurer on behalf of the district pursuant to Section 14041 of the

Education Code. However, subject to the approval of the Department of Finance, the amount withheld may be in monthly amounts as determined by an agreement between the King City Joint Union High School District and the Controller during the period beginning with the next available apportionment through the month preceding the next scheduled payment.

(c) The school district shall enter into a lease financing with the California Infrastructure and Economic Development Bank for the purpose of financing the emergency apportionment, including a repayment to the General Fund of the amount advanced pursuant to Section 8. In addition to the amount advanced pursuant to Section 8, the school district may augment the emergency loan with an additional eight million dollars (\$8,000,000) of lease financing in order to increase the emergency loan to a total of no more than thirteen million dollars (\$13,000,000). In addition to the emergency apportionment, the lease financing may include funds necessary for reserves, capitalized interest, credit enhancements, and costs of issuance. The bank shall issue bonds for that purpose pursuant to the powers granted pursuant to the Bergeson-Peace Infrastructure and Economic Development Bank Act as set forth in Division 1 (commencing with Section 63000) of Title 6.7 of the Government Code. The term of the lease shall not exceed 20 years, except that if at the end of the lease term any rent payable is not fully paid, or if the rent payable has been abated, the term of the lease shall be extended for a period not to exceed 10 years.

(d) The Director of Finance may amend the payment schedule set forth in subdivision (a) if the director concludes that the amendment is warranted and is in the best interests of both the state and the King City Joint Union High School District education program. Upon that determination, the director shall notify the Joint Legislative Budget Committee that the payment scheduled will be changed on the date that is 90 days from the date of notification if the Legislature is in session. If the 90-day period ends during a recess of the Legislature or while the Legislature is not in session, the 90-day period shall be extended until the Legislature reconvenes. Amendments to the payment schedule shall defer the unpaid portion of a repayment of the earliest fiscal year in which no other repayment is scheduled. Interest shall accrue on the unpaid portion of a repayment from the scheduled due date

until the time the payment is actually made. The interest charge shall be the rate equal to the daily investment rate of the Pooled Money Investment Account on the date the pay schedule is changed.

(e) The school district may repay its loan obligation without incurring any prepayment penalties.

SEC. 10. (a) Notwithstanding Sections 17456, 17457, 17462, and 17463 of the Education Code, or any other law, from June 1, 2009, to June 30, 2012, inclusive, the King City Joint Union High School District may sell property owned by the district and use the proceeds from the sale to reduce or retire the emergency loan provided in Section 8 of this act. The sale only of property pursuant to this subdivision is not subject to Section 17459 or 17464 of the Education Code.

(b) Notwithstanding any other provision of law, from June 1, 2009, to June 30, 2014, inclusive, the King City Joint Union High School District is not eligible for financial hardship assistance pursuant to Article 8 (commencing with Section 17075.10) of Chapter 12.5 of Part 10 of Division 1 of Title 1 of the Education Code.

SEC. 11. The Monterey County Superintendent of Schools maintains the responsibility to superintend school districts under its jurisdiction. This act does not remove any statutory or regulatory rights, duties, or obligations from the county superintendent of schools.

SEC. 12. The Legislature finds and declares that, due to unique circumstances relating to the fiscal emergency in the King City Joint Union High School District, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.

SEC. 14. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to address the fiscal emergency in which the King City Joint Union High School District finds itself, and to ensure that it meets its cash obligations for this fiscal year, it is necessary that this act take effect immediately.

Approved _____, 2009

Governor